

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

KING ZAK INDUSTRIES, INC.

Plaintiff,

-against-

PARAMONT GLOBAL LTD, WEVEEL  
LLC, NINGBO EVERGREAT IMPORT  
and EXPORT CO., LTD., and CHINA  
EXPORT & CREDIT INSURANCE  
CORPORATION A/K/A SINOSURE

Defendants.

**ANSWER**

Case No. : 17-CV-449 (CS)

## Jury Trial Demanded

Defendant WEVEEL LLC, ("Defendant"), by and through its attorney, Sean M. Kemp, Esq. hereby appears and answers the Complaint by Plaintiff KING ZAK INDUSTRIES, INC. dated January 20, 2017 (the "Complaint"), as follows:

## NATURE OF THE ACTION

1. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "1" of the Complaint and refer all questions of law to the Court.

**PARTIES AND JURISDICTION**

**King Zak**

2. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "2" of the Complaint.

3. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "3" of the Complaint.

**Paramont**

4. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "4" of the Complaint.

5. DENIES the truth of the allegations contained in paragraph "5" of the Complaint.

6. ADMITS the allegations contained in paragraph "6" of the Complaint.

7. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "7" of the Complaint.

8. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "8" of the Complaint.

9. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "9" of the Complaint.

10. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "10" of the Complaint.

11. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "11" of the Complaint.

12. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "12" of the Complaint.

13. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "13" of the Complaint.

14. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "14" of the Complaint.

15. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "15" of the Complaint.

16. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "16" of the Complaint.

17. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "17" of the Complaint.

18. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "18" of the Complaint.

19. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "19" of the Complaint.

**WeVeel**

20. ADMITS that "Scentos Brand" is a registered copyright of Defendant, but DENIES knowledge or information sufficient to form a belief as to the truth of all other allegations contained in paragraph "20" of the Complaint.

21. ADMITS that Defendant is a Delaware limited liability company with its principal place of business currently at 20 North Pennsylvania Avenue, Morrisville, Pennsylvania 19067, but DENIES knowledge or information sufficient to form a belief as to the truth of all other allegations contained in paragraph "21" of the Complaint.

22. DENIES the truth of the allegations contained in paragraph "22" of the Complaint.

23. ADMITS that Joel Chiapelli is an Art Director for Defendant.

24. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "24" of the Complaint.

25. ADMITS that Defendant has a showroom at 67 Mody Road, Tsiim Sha Tsui East, Kowloon, Hong Kong, China, but DENIES knowledge or information sufficient to form a belief as to the truth of all other allegations contained in paragraph "25" of the Complaint.

26. ADMITS that Defendant has its China Headquarters at 3-4 F, No. 1 Building, HI-Tech Science & Technology Square, No. 1498, Jiangnan Road, Ningbo, China 315040, but DENIES knowledge or information sufficient to form a belief as to the truth of all other allegations contained in paragraph "26" of the Complaint.

27. ADMITS that Defendant has a phone number (267) 797-5436, but DENIES knowledge or information sufficient to form a belief as to the truth of all other allegations contained in paragraph "27" of the Complaint.

28. ADMITS the allegations contained in paragraph "28" of the Complaint.

29. ADMITS the allegations contained in paragraph "29" of the Complaint.

30. DENIES the truth of the allegations contained in paragraph "30" of the Complaint.

**Evergreat**

31. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "31" of the Complaint.

32. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "32" of the Complaint.

33. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "33" of the Complaint.

34. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "34" of the Complaint.

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36. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "36" of the Complaint.

37. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "37" of the Complaint.

38. DENIES the truth of the allegations contained in paragraph "38" of the Complaint.

39. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "39" of the Complaint.

40. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "40" of the Complaint.

41. DENIES the truth of the allegations contained in paragraph "41" of the Complaint.

42. DENIES the truth of the allegations contained in paragraph "42" of the Complaint and respectfully refers all questions of law to the Court.

**Sinosure**

43. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "43" of the Complaint.

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47. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "47" of the Complaint.

48. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "48" of the Complaint.

49. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "49" of the Complaint and refers all questions of law to the Court.

50. DENIES the truth of the allegations contained in paragraph "50" of the Complaint and refers all questions of law to the Court.

51. DENIES the truth of the allegations contained in paragraph "51" of the Complaint and refers all questions of law to the Court.

52. DENIES the truth of the allegations contained in paragraph "52" of the Complaint and refers all questions of law to the Court.

53. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "53" of the Complaint and refers all questions of law to the Court.

54. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph



"54" of the Complaint and refers all questions of law to the Court.

**Factual Background**

55. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "55" of the Complaint.

56. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "56" of the Complaint.

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67. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "67" of the Complaint.

68. DENIES the truth of the allegations contained in paragraph "67" of the Complaint.

69. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "69" of the Complaint.

70. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "70" of the Complaint.

71. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "71" of the Complaint.

72. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "72" of the Complaint.

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79. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "79" of the Complaint.

80. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "80" of the Complaint.

81. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "56" of the Complaint.

82. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "82" of the Complaint.

83. DENIES the truth of the allegations contained in paragraph "83" of the Complaint.

84. DENIES the truth of the allegations contained in paragraph "84" of the Complaint.

85. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "85" of the Complaint.

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88. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "88" of the Complaint.

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95. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "95" of the Complaint.

96. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "96" of the Complaint.

97. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "97" of the Complaint.

98. DENIES the truth of the allegations contained in paragraph "98" of the Complaint.

99. DENIES the truth of the allegations contained in paragraph "99" of the Complaint.

**FIRST CAUSE OF ACTION**  
**(Breach of Contract under the C.I.S.G.)**

100. Defendant repeats and realleges each and every response in paragraphs numbered "1" through "99" above as if same were fully set forth herein.

101. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "101" of the Complaint.

102. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "102" of the Complaint.

103. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "103" of the Complaint.

104. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "104" of the Complaint.

105. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "105" of the Complaint.

106. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "106" of the Complaint.

107. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "107" of the Complaint.

**SECOND CAUSE OF ACTION**  
**(Fraudulent Inducement)**

108. Defendant repeats and realleges each and every response in paragraphs numbered "1" through "107" above as if same were fully set forth herein.

109. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "109" of the Complaint.

110. DENIES the truth of the allegations contained in paragraph "110" of the Complaint.

111. DENIES the truth of the allegations contained in paragraph "111" of the Complaint.

112. DENIES the truth of the allegations contained in paragraph "112" of the Complaint.

113. DENIES truth of the allegations contained in paragraph "113" of the Complaint.

114. DENIES the truth of the allegations contained in paragraph "114" of the Complaint.

115. DENIES the truth of the allegations contained in paragraph "115" of the Complaint.

**THIRD CAUSE OF ACTION**  
**(Negligent Misrepresentation)**

116. Defendant repeats and realleges each and every response in paragraphs numbered "1" through "115" above as if same were fully set forth herein.

117. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "117" of the Complaint.

118. DENIES the truth of the allegations contained in paragraph "118" of the Complaint.

119. DENIES the truth of the allegations contained in paragraph "119" of the Complaint.



120. DENIES the truth of the allegations contained in paragraph "120" of the Complaint.

121. DENIES the truth of the allegations contained in paragraph "121" of the Complaint.

122. DENIES the truth of the allegations contained in paragraph "122" of the Complaint.

123. DENIES the truth of the allegations contained in paragraph "123" of the Complaint.

**FOURTH CAUSE OF ACTION**  
**(Fraud)**

124. Defendant repeats and realleges each and every response in paragraphs numbered "1" through "123" above as if same were fully set forth herein.

125. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "125" of the Complaint.

126. DENIES the truth of the allegations contained in paragraph "126" of the Complaint.

127. DENIES the truth of the allegations contained in paragraph "127" of the Complaint.

128. DENIES the truth of the allegations contained in paragraph "128" of the Complaint.

129. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "129" of the Complaint.

130. DENIES the truth of the allegations contained in paragraph "130" of the Complaint.

131. DENIES the truth of the allegations contained in paragraph "131" of the Complaint.

132. DENIES the truth of the allegations contained in paragraph "132" of the Complaint.

**FIFTH CAUSE OF ACTION**

**(Tortious Interference With Prospective Business Relations)**

133. Defendant repeats and realleges each and every response in paragraphs numbered "1" through "132" above as if same were fully set forth herein.

134. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "134" of the Complaint.

135. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "135" of the Complaint.

136. DENIES the truth of the allegations contained in paragraph "136" of the Complaint.

137. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "137" of the Complaint.

138. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "138" of the Complaint.

139. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "139" of the Complaint.

140. DENIES the truth of the allegations contained in paragraph "140" of the Complaint.

**SIXTH CAUSE OF ACTION**  
**(Declaratory Judgment)**

141. Defendant repeats and realleges each and every response in paragraphs numbered "1" through "140" above as if same were fully set forth herein.

142. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "142" of the Complaint.

143. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "143" of the Complaint.

144. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "144" of the Complaint.

145. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "145" of the Complaint.

146. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "146" of the Complaint.

147. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "147" of the Complaint.

148. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "148" of the Complaint.

149. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "149" of the Complaint.

150. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "150" of the Complaint.

151. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "151" of the Complaint.

152. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "152" of the Complaint.

153. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "153" of the Complaint and refers all questions of law to the Court.

154. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "154" of the Complaint and refers all questions of law to the Court.

**SEVENTH CAUSE OF ACTION**  
**(Indemnification)**

155. Defendant repeats and realleges each and every response in paragraphs numbered "1" through "154" above as if same were fully set forth herein.

156. DENIES knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "156" of the Complaint.

157. DENIES the truth of the allegations contained in paragraph "157" of the Complaint.

158. DENIES the truth of the allegations contained in paragraph "158" of the Complaint.

**DEFENSES AND RESERVATION OF RIGHTS**

159. Without admitting any allegations asserted in the Complaint, Defendant asserts the following defenses. Nothing

stated in any of the following defenses constitutes a concession that Defendant bears any burden of proof on any issue on which it would not otherwise bear such burden. Further, Defendant intends and specifically reserves the right to rely upon any additional defenses that become available or apparent while this action is pending and reserves the right to amend this Answer in order to otherwise assert any such further defenses.

**AS AND FOR A FIRST DEFENSE**

160. The Complaint fails to state a claim, in whole or in part, upon which relief may be granted as against Defendant.

**AS AND FOR A SECOND DEFENSE**

161. Plaintiff's claims against Defendant should be dismissed as it lacks contractual privity with Defendant.

**AS AND FOR A THIRD DEFENSE**

162. Plaintiff's claims are barred, in whole or in part, by documentary evidence.

**AS AND FOR A FOURTH DEFENSE**

163. Plaintiff's claims are barred by the applicable statute of limitations.

**AS AND FOR A FIFTH DEFENSE**

164. Plaintiff's claims are barred in whole or in part by its unclean hands, as well as the doctrines of waiver and estoppel.

**AS AND FOR A SIXTH DEFENSE**

165. Plaintiff failed to mitigate its damages, if any.

**AS AND FOR A SEVENTH DEFENSE**

166. The Complaint, and each allegation of fraud and misrepresentation therein, fails to aver the circumstances constituting fraud with particularity in accordance with Federal Rule of Civil Procedure 9(b), and all such claims should accordingly be dismissed.

**AS AND FOR A EIGHTH DEFENSE**

167. Plaintiff would be unjustly enriched if granted the relief sought in the Complaint.

**AS AND FOR A NINTH DEFENSE**

168. Plaintiff's sixth cause of action against the defendant should be dismissed, as there is no justiciable controversy between plaintiff and the defendant.

**AS AND FOR A TENTH DEFENSE**

169. Plaintiff's causes of action for fraud, fraudulent inducement, and negligent misrepresentation should be dismissed as duplicative of its breach of contract claims.

**AS AND FOR AN ELEVENTH DEFENSE**

170. Defendant is not the alter ego of defendant Paramount and/or defendant Evergreat and plaintiff has not alleged (and cannot prove) any facts sufficient to find Defendant liable for any acts and/or omissions of Paramount and/or Evergreat.

WHEREFORE, Defendant demands judgment:

a) Dismissing the Complaint in its entirety with prejudice;

- b) Awarding Defendant its attorneys' fees, costs, expenses, and disbursements incurred in this action; and
- c) Awarding Defendant such other and further relief as the Court deems just and proper.

Dated: May 1, 2017

Respectfully submitted,

LAW OFFICE OF SEAN M. KEMP

/s/SEAN M. KEMP

Sean M. Kemp, Esq.

P.O. Box 494

44 West Market Street

Rhinebeck, NY 12572

(845) 418-5853

sean@seanmkemp.com

ATTORNEY FOR DEFENDANT WEVEEL LLC



**CERTIFICATE OF SERVICE**

I hereby certify that on May 1, 2017 the foregoing document was filed with the Clerk of the Court and served in accordance with the Federal Rules of Civil Procedure, and/or the Southern District's Local Rules, and/or the Southern District's Rules on Electronic Service upon the following parties and participants:

Ryan K. Cummings, Esq.  
Neil B. Friedman, Esq.  
Hodgson Russ LLP  
Attorneys for Plaintiff  
1540 Broadway, 24<sup>th</sup> Floor  
New York, NY 10036  
ryan\_cummings@hodgsonruss.com  
nfriedma@hodgsonruss.com

LAW OFFICE OF SEAN M. KEMP

/s/SEAN M. KEMP  
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